

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the
Southern District of Texas

Alberto Patino, et al.

Plaintiff

v.

City of Pasadena, et al.

Defendant

Civil Action No. 4:14-cv-03241

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTIONTo: Citizens to Keep Pasadena Strong, c/o Jerad Najvar
Najvar Law Firm, 4151 Southwest Freeway, Suite 625, Houston, TX 77027, (281) 404-4696

(Name of person to whom this subpoena is directed)

☒ **Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attached Exh. A.

Place: Molina Law Firm, 11550 Fuqua St., Suite 580
Houston, TX 77034, eherrera@maldef.org

Date and Time:

12/07/2015 5:00 pm

☐ **Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/19/2015

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Alberto Patino, et al., who issues or requests this subpoena, are:

Ernest I. Herrera, Staff Attorney, MALDEF, 110 Broadway, Suite 300, San Antonio, TX 78205, (210) 224-5476.

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

EXHIBIT A - MOT TO QUASH

EXHIBIT A:
**SUBPOENA TO THIRD-PARTY TO PRODUCE DOCUMENTS TO THE CITIZENS TO
KEEP PASADENA STRONG POLITICAL COMMITTEE**

Pursuant to Rules 30, 34 and 45 of the Federal Rules of Civil Procedure, Plaintiffs Alberto Patino, et al., request that the political action committee or political committee known as The Citizens to Keep Pasadena Strong (herein, "Citizens PAC"), produce at the time, date, and place set forth in the Subpoena the following documents, electronically stored information, or objects in Section IV below, and permit their inspection, copying, testing, or sampling of the material in accordance with the Federal Rules and the Definitions and Instructions set forth below. Further, the Citizens PAC is directed to supplement this production as provided by the same Rules. Unless counsel for the parties make another agreement, documents are to be addressed to Ernest Herrera and produced at the offices of Molina Law Firm, 11550 Fuqua St., Suite 580, Houston, TX 77034, or at the email address, eherrera@maldef.org.

Your responses, any objections, and all responsive documents within your custody, possession, or control must be served on the undersigned attorneys by the date listed on the subpoena. You must either produce documents and tangible things as they are kept in the ordinary course of business or organize and label them to correspond with the categories in this request.

I. DEFINITIONS

For purposes of these Requests for Production, the terms used herein shall have the following meanings:

A. As used herein, the words "and" and "or" shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these requests any documents or information that might be deemed outside its scope by another construction.

B. The term "relate/relating to" shall have its usual meaning and shall also specifically mean reflecting, related to, referring to, describing, representing, evidencing or constituting.

C. "Document" and "documents" are defined to be synonymous in meaning and equal in scope to the usage of the terms in Federal Rule of Civil Procedure 34(a), in its broadest sense, and shall mean and include all computerized memoranda, databases, spreadsheets, e-mail, any documents of identification and other information as well as written, printed, typed, recorded or graphic matter of every kind and description, both originals and copies, and all attachments and appendices thereto, that are in the possession, custody or control of Jerad Najvar, or the Citizens PAC, or in the possession, custody or control of the attorney for Jerad Najvar. A draft of a non-identical copy is a separate document within the meaning of this term.

D. The term "communication" shall mean and include every manner or means of disclosure, transfer, or exchange, and every disclosure, transfer, or exchange of information, whether orally or by document or whether face-to-face, by telephone, mail, e-mail, personal delivery, or otherwise.

E. Without limiting the term "control," a document is deemed to be within the Citizens PAC's control if any of the Citizens PAC's former or current volunteers or staff have ownership, possession or custody of the document, or the right to secure the document or copy thereof from any persons or public or private entity having physical control thereof.

F. "Person" shall mean any individual, association, agency, commission, or other legal or governmental entity or association.

G. "Statement" means and includes any written or graphic statement signed or otherwise adopted or approved by the users in making it, any stenographic, mechanical, electrical

or other recording or a written transcription which is a substantially verbatim recital or an oral statement made by a person which is contemporaneously recorded.

H. "Citizens PAC" shall mean the political action committee or political committee known as Citizens to Keep Pasadena Strong, as well as all persons acting or purporting to act on behalf of the political committee, including any attorney or other representative.

I. The plural of any word used herein includes the singular, and the singular includes the plural.

J. The past tense of any verb used herein includes the present tense, and the present tense includes the past tense.

K. The term "staff" means an individual or group of individuals charged with carrying out the work of the legislative office, whether paid or volunteer.

L. A "communication" shall mean anything ordinarily interpreted as a communication, including but not limited to any correspondence, any electronic mail message, any text message, any telephonic communication or any palm card, post card, letter, flyer, leaflet, mailer or poster

M. Any mention of "Pasadena" in this document is meant to refer to the City of Pasadena in Texas.

II. INSTRUCTIONS

A. Regarding documents called for by these requests as to which the Citizens PAC claims a privilege or which either contends are not subject to production, please provide at the time for production a listing that describes each document and states with respect to each such document:

1. the type of document (e.g., letter, memorandum, report, etc.);

2. the date;
3. the title;
4. the number of pages;
5. the author or addressor;
6. the names and address or addresses of any persons who have received and/or who have obtained a copy of the document;
7. the subject matter of the document;
8. the factual and legal basis of the claim or privilege or ground of non- production asserted with respect to the document; and
9. any other information which, without revealing the information which is itself privileged or protected, will enable the plaintiffs to assess the application of the privilege asserted.

B. If the documents requested herein, or any portion thereof, after exercising due diligence to locate those documents, please so state, specifying the basis for such limited production, the reasons for the inability to produce the documents requested, whether said documents have been destroyed and why, and whatever information or knowledge the Citizens PAC may have related to the location of such documents.

C. Unless the context clearly requires otherwise, this request for documents includes all documents within the Citizens PAC's custody or control; those within the custody or control of each of the attorneys, agents, associates, consultants and/or employees of the Citizens PAC; and those to which any of these persons has access.

D. For all documents in electronic, magnetic, or format other than paper, please produce in the following formats: printed hardcopy or electronic (700 MB DVD, PDF, Microsoft Excel, or Microsoft Word 2003 or later).

E. If the documents are provided on an FTP or file share site, all documents must be produced in a way that makes clear the exact location on the FTP site of materials responsive to each numbered request.

III. WARNING

A failure to produce the documents requested on time without adequate excuse may result in the Court holding the Citizens PAC or its representative in contempt under Rule 45(g) of the Federal Rules of Civil Procedure.

IV. DOCUMENTS TO BE PRODUCED

1. Produce all draft and final versions of documents: that relate to all communication between the Citizens PAC and persons who resided or were registered to vote in Pasadena; that reference any candidate being voted on in the May 2013 Pasadena City Council and Mayoral elections; and that were sent or received between January 1, 2013, and May 1, 2014.
2. Produce all draft and final versions of documents: that relate to all communication between the Citizens PAC and persons who resided or were registered to vote in Pasadena; that referenced ethnicity, political affiliation, population change, demographic growth, or that included the terms "Hispanic," "Mexican," "immigrant," "alien" or "Latino;" and that were sent or received between January 1, 2013, and May 1, 2014.

3. Produce any documents reflecting all communication between Johnny Isbell, Mayor of Pasadena, or any other employees of the City of Pasadena, and any member or staff of the Citizens PAC, sent or received between January 1, 2013, and May 30, 2015.
4. Produce any documents reflecting all communication about the November 2013 special election among the Citizens PAC, its members, treasurer or staff.
5. Please produce all documents that relate to all meetings held between January 1, 2013, and May 1, 2014, by any members of the Citizens PAC in order to discuss communication sent to persons who resided or were registered to vote in Pasadena.
6. Please produce all documents, not limited to receipts and or bank statements, detailing how communication sent by the Citizens PAC to Pasadena residents or voters between January 1, 2013, and May 1, 2014 were funded.
7. Please produce all documents, not limited to receipts and or bank statements, detailing all funds received by Citizens PAC, between January 1, 2013, and May 1, 2014.
8. Produce all draft and final versions of documents relating to all communication between the Citizens PAC and persons who resided or were registered to vote in Pasadena that referenced any candidate running for office in the City of Pasadena municipal election held on May 9, 2015.
9. Produce all draft and final versions of documents: that relate to all communication between the Citizens PAC and persons who resided or were registered to vote in Pasadena; that referenced ethnicity, political affiliation, population change, demographic growth, or that included the terms "Hispanic," "Mexican," "immigrant," "alien" or "Latino;" and that referred to the City of Pasadena municipal election held on May 9, 2015.

10. Produce any documents reflecting all communication between or among the members or staff of the Citizens PAC's staff regarding the May 9, 2015 City of Pasadena municipal election.
11. Please produce all documents relating to all meetings held between November 1, 2014, and May 30, 2015, by any member of the Citizens PAC in order to discuss communications with persons who resided or were registered to vote in Pasadena.
12. Please produce all documents, not limited to receipts and or bank statements, detailing the funding of communications sent by Citizens PAC to persons who resided or were registered to vote in Pasadena, between November 1, 2014, and May 30, 2015.
13. Please produce all documents, not limited to receipts and or bank statements, detailing any funds received by Citizens PAC, between November 1, 2015, and May 30, 2015.